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Attorney for RICHARD JOHNSON, Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CERTIFICATION BY PLAINTIFF THAT AGREED UPON CONSIDERATION HAS NOT BEEN DELIVERED
AND
REQUEST THAT CONDITIONAL DISMISSAL BE VACATED AND CASE RESTORED TO CALENDAR

FACTS

On June 23, 2016 an ADR session was held between plaintiff and Defendants. A settlement was entered into by the parties and the case was deemed settled. Plaintiff RICHARD JOHNSON (hereafter “Plaintiff”) hereby certifies through his legal representative, Kenneth J. Pinto, that he entered into a settlement agreement with Defendants ALBERT A. BERGER, an individual, and PAUL K. BERGER, an individual collectively d/b/a BURGER PIT; and PAMELA S. KELLEY, an individual, RANDY A. KELLEY, an individual(hereafter “Defendants”) via their legal representative Samuel Phillips; with terms that the agreed consideration was due 20 business days from June 23, 2016. (July 21, 2016) Plaintiff further certifies that July 21, 2016 has passed and no agreed upon consideration has been provided to Plaintiff by the Defendant(s).

Plaintiff believes the conditional order of dismissal should be vacated and that the matter should be restored to the court calendar and set for further proceedings as the court deems proper.

DATED: August 01, 2016

By:/s/ *Kenneth J. Pinto*
KENNETH J. PINTO
Attorney for Plaintiff RICHARD JOHNSON

ORDER

PURSUANT TO ORDER OF CONDITIONAL DISMISSAL, IT IS SO ORDERED.

- (1) The order for conditional dismissal is hereby vacated.
 - (2) The case is restored to the court's calendar.
 - (3) The matter is to be set for further proceedings as the court deems proper.

The court sets the case for a Case Management Conference on August 18, 2016 at 11:00 a.m. and directs the filing of a Joint Case Management Statement by August 11, 2016.

Dated: August 2 , 2016 By:

**Laurel Beeler
United States Magistrate Judge
United States District Court
Northern District of California**

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